



NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755-6000

FOIA Case: 70761
4 June 2013

Mr. Michael Morisy
MuckRock News
DEPT MR5714
PO Box 5819
Boston, MA 02205-5819

Dear Mr. Morisy:

This is an initial response to your Freedom of Information Act (FOIA) request dated 24 May 2013, which was received by this office on 24 May 2013. We have interpreted and numbered your request as listed below for ease-of-reference:

1. Any written or electronic communication material created in preparation for the public opening and announcement of NSA's Utah Data Center (UDC). A ribbon cutting was planned to take place on May 30
2. Any written or electronic communication material created in preparation for any other public events and announcements similar to the ribbon cutting.
3. Print and electronic invitations for each public/press event related to the UDC
4. List of invited participants for each public/press event related to the UDC
5. List of attendees for each public/press event related to the UDC
6. Any PowerPoint or other presentations for each public/press event related to the UDC
7. Menu for any press, VIP, and ribbon cutting events for each public/press event related to the UDC
8. Speeches and talking points for delivery for each public/press event related to the UDC
9. Video or audio presentations given for each public/press event related to the UDC
10. Post-Mortem and Lessons-learned reports generated after an event for each public/press event related to the UDC

This letter acknowledges that we have received your request and provides some administrative information. Your request has been assigned Case Number 70761. We have begun to process your request and will provide a more substantive response to you shortly. Your request for, and search and review of, information

concerning the above-noted public event(s) is expected to be extensive and will require an elaborate search. The complexity of the search constitutes an exceptional circumstance and precludes our responding to you within 20 working days of our receipt of your request.

I have considered your request to be classified as “a representative of the news media” and determined that it should be denied. The FOIA, at 5 U.S.C. 552 (a)(4)(A)(ii), sets three standards that must be met for a requester to qualify as a representative of the news media:

1. Requester must be a person or entity that gathers information of potential interest (news) to a segment of the public. The FOIA defines ‘news’ as information that is about current events or that would be of current interest to the public.
2. Requester must use its editorial skills to turn the raw materials into a distinct work.
3. Requester must distribute that work to an audience.

I have determined that you do not meet standards 1 and 2, as listed above. The first criterion that must be met to be considered a representative of the news media is that the requester gathers the information in the public interest. Representatives of the news media normally are organized to seek out and gather information generated by public interest, not information generated by internal interests the individuals or organizations may have. This is what qualifies these individuals or organizations to be considered as members of the news media. To meet the second criterion, a requester must use its editorial skills to turn raw material into a distinct work. You have offered no information with regard to your intended use of any materials that might be released as a result of this FOIA request.

With regard to your request for a fee waiver, there is a two-pronged test a requester must satisfy to qualify for a fee waiver. First, the requested information must be in the public interest. Second, the request must not be primarily in the requester’s commercial interest. The following six factors further define the two-pronged waiver test, and a requester must meet the first four factors to qualify under the public interest prong:

1. The subject of the request must concern the “operations and activities of the government.”
2. The disclosure of information is “likely to contribute to an understanding of government operations and activities.”
3. The disclosure of the requested information will “contribute to public understanding.”
4. The disclosure is likely to contribute “significantly” to public understanding of government operations and activities.